

August 10, 2004

**MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL**

1. CALL TO ORDER

The Torrance City Council convened in an adjourned regular meeting at 6:30 p.m. on August 10, 2004, in Council Chambers.

ROLL CALL

Present: Councilmembers Lieu, Nowatka, Mauno, Scotto, Witkowsky and Mayor Walker.

Absent: Councilmember McIntyre.

Also Present: Assistant City Manager Giordano, City Attorney Fellows, City Clerk Herbers and other staff representatives.

17. EXECUTIVE SESSION

The Council immediately recessed to closed session to confer with the City Manager and the City Attorney on the agenda matters listed under 17.a) Conference with Labor Negotiator and 17.b) Real Property – Conference with Real Property Negotiator pursuant to California Government Code Sections 54957.6 and 54956.8.

The City Council reconvened at 7:07 p.m.

2. FLAG SALUTE/INVOCATION

The Pledge of Allegiance was led by Councilmember Lieu.

The invocation was given by Councilmember Nowatka.

3. AFFIDAVIT OF POSTING/WAIVE FURTHER READING

MOTION: Councilmember Scotto moved to accept and file the report of the City Clerk on the posting of the agenda for this meeting. The motion was seconded by Councilmember Witkowsky and a voice vote reflected unanimous approval (absent Councilmember McIntyre.)

MOTION: Councilmember Scotto moved that after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilmember Witkowsky and a roll call vote reflected unanimous approval (absent Councilmember McIntyre.)

4. WITHDRAWN OR DEFERRED ITEMS

Assistant City Manager Giordano indicated that item 11c had been withdrawn.

5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS

Councilmember Nowatka announced that the next Ad Hoc Legislative Committee meeting would be Tuesday, August 24 at 4:30 p.m. in the Third Floor Assembly room to consider ballot measures on the November ballot.

Councilmember Witkowsky announced that the Community Planning and Design Committee would be meeting on August 23 at 4:30 p.m. in the Third Floor Assembly room to discuss the Mills Act – Overlay District.

6. COMMUNITY MATTERS

6a. RESOLUTION NO. 2004-101 RE LAVONNE CATHERINE HUDSON

RESOLUTION NO. 2004-101

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE HONORING LAVONNE CATHERINE HUDSON UPON HER RETIREMENT FROM THE CITY AFTER TWENTY-NINE YEARS OF SERVICE.

MOTION: Councilmember Mauno moved to adopt Resolution No. 2004-101. Councilmember Scotto seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre.)

Councilmember Witkowsky read the resolution and Ms. Hudson thanked the Mayor and the City for the resolution.

6b. INTRODUCTION OF KASHIWA EXCHANGE STUDENTS

Mayor Walker introduced Torrance Sister City Association President Al Muratsuchi who introduced students Kei Ezawa, Ryota Ishibashi, Nobuhiro Kobayashi, Jun Matsumoto, Mayu Odaira, Aki Sakamaki, Anna Sato, Keiko Sugiura and their adult leader Keiko Sato.

Adult Leader Keiko Sato expressed pleasure at visiting the United States and Councilmember Scotto thanked the host families for opening their homes to the students.

6c. COMMISSION APPOINTMENTS

Recommendation of the **City Clerk** that City Council review applications and make appointments to the fill the unscheduled vacancies on the Library and Water Commissions and that the City Clerk administer the Oath of Office to those commissioners present.

Jerome Haig and Julie Thue were appointed to the Library Commission and Carmen Gonzalez was appointed to the Water Commission by unanimous ballots.

City Clerk Herbers administered the oath of office to Carmen R. Gonzalez, Jerome J. Haig and Julie Thue.

7. CONSENT CALENDAR

Councilmember Scotto asked that item 7D be pulled out for separate consideration.

7a. PURCHASE ORDER RE COMPUTER LOAN BENEFIT PROGRAM

Recommendation

Recommendation of the **City Manager** that City Council appropriate \$40,000 from the Computer Loan Fund and approve a purchase order for the term August 11, 2004 through July 31, 2006 to SYS Technology Inc. of Cypress, CA, the approved vendor for the City of Torrance Computer Loan Benefit Program.

7b. CHANGE ORDER RE FLEET SERVICE VEHICLES REPLACEMENT PARTS

Recommendation

Recommendation of the **General Services Director** that City Council approve a change order to existing vendor contract 496 with Pacific Ford of Long Beach, CA in an amount not to exceed \$10,000, increasing the not to exceed amount of said contract to \$34,000.

7c. SUBDIVISION BONDS RE TRACT MAP 53318 AT 5550 190th STREET

Recommendation

Recommendation of the **Community Development Director** that City Council approve the release of three subdivision bonds for Tract Map 53318, located at 5550 190th Street.

7d. PUBLIC WORKS AGREEMENT RE PEDESTRIAN SIGNAL ON CARSON STREET

Recommendation

Recommendation of the **Community Development Director** that City Council:

- 1) Accept the bid (B2004-28) from and award a contract to KDC Inc. dba Dynalectric in the amount of \$101,820 for the construction of pedestrian signal on Carson Street in the vicinity of Jefferson Middle School;
- 2) Authorize a 5% contingency in the amount of \$5,091;
- 3) Authorize staff to prepare a standard public works agreement between the City and KDC Inc. dba Dynalectric; and
- 4) Authorize the Mayor to execute and the City Clerk to attest to said agreement; with
- 5) Agreement to be approved as to form by the City Attorney.

7e. AMENDMENT AGREEMENT RE CITYWIDE WEBSITE REDESIGN PROJECT

Recommendation

Recommendation of the City Manager that City Council:

- 1) Approve Amendment No. 3 to agreement with Gramercy Partners Inc. (C2002-168) for the Citywide Website Redesign (CWR) Project, (FEAP #297), to extend contract expiration date to December 31, 2004; and Authorize the Mayor to execute and the City Clerk to attest to the amendment on behalf of the City. Program, I38, for a new not to exceed total of \$780,662, extend the agreement term to August 7, 2005; and
- 2) Authorize the Mayor to execute and the City Clerk to attest to said amendment.

7f. PURCHASE AGREEMENT RE ANNUAL T-SHIRT REQUIREMENT

Recommendation

Recommendation of the **Parks and Recreation Director** and the **Finance Director** that City Council authorize a purchase agreement with Custom Embroidery and Screen Printing by Icon, in Torrance, CA. for an annual amount not to exceed \$90,511.39 for the purchase of T-shirts. (B2004-21)

MOTION: Councilmember Witkowsky moved to approve items 7a through 7c and 7e and 7f as written. Councilmember Lieu seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre.)

Councilmember Scotto drew attention to item 7d which would finally enable the installation of a pedestrian signal at Jefferson Middle School

MOTION: Councilmember Scotto moved to approve item 7d as written. Councilmember Lieu seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre).

9. PLANNING AND ECONOMIC DEVELOPMENT

9a. LANDSCAPE ARCHITECT RE 2829 MARICOPA STREET

Recommendation of the **Community Development Director** that City Council consider authorizing the hiring of a landscape architect to perform a peer review of a landscape plan for the property located at 2829 Maricopa Street.

MOTION: Councilmember Scotto moved to accept the staff recommendation. Councilmember Witkowsky seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre).

11. ADMINISTRATIVE MATTERS

11a. CONTINUED STATE OF LOCAL EMERGENCY FOR CAROLWOOD LANE AND SINGINGWOOD DRIVE

Recommendation of the City Manager and the City Attorney that City Council continue the state of local emergency, proclaimed March 2, 2001 for properties located on Carolwood Lane and Singingwood Drive.

MOTION: Councilmember Scotto moved to continue the state of local emergency for Carolwood Lane and Singingwood Drive. Councilmember Witkowsky seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre).

11b. RESOLUTION NO. 2004-102 RE MILITARY BENEFITS

Recommendation of the **City Manager** that City Council adopt a **RESOLUTION** providing for military leave and continuation of salary and certain benefits during the employee's involuntary active military duty.

Human Resources Analyst Elmer stated that the current leave period is one year but they have seen a pattern of deployed employees being asked to remain for more than one year or they return for a short time and then are reactivated. Councilmember Scotto stated that support was imperative noting that he had been a beneficiary of the same thing in the Vietnam War and he felt this was the responsibility of the City.

MOTION: Councilmember Scotto moved to accept the staff recommendation. Councilmember Witkowsky seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre).

RESOLUTION NO. 2004-104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE PROVIDING FOR MILITARY LEAVE AND CONTINUATION OF SALARY AND CERTAIN BENEFITS FOR CITY EMPLOYEES CALLED TO ACTIVE DUTY WITH THE ARMED FORCES.

MOTION: Councilmember Mauno moved to adopt Resolution No. 2004-104. Councilmember Nowatka seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre).

Councilmember Lieu noted that Nina McCorry was in the audience and her husband was to be deployed to Iraq in 9 days

11c. RESOLUTIONS RE CHANGES TO PUBLIC EMPLOYEES RETIREMENT HEALTHCARE SYSTEM (PERS)

Recommendation of the **City Manager** that City Council adopt **RESOLUTIONS** withdrawing representation units under the following employee organizations and their respective members from the Public Employees Retirement Healthcare System (PERS):

- Torrance Professional and Supervisory Association (TPSA)
- Torrance Fiscal Employees Association (TFEA)
- Engineers Association (Engineers)

Item deferred.

12. HEARINGS

12a. URGENCY ORDINANCE RE CONSTRUCTION MORATORIUM

Recommendation of the **Community Development Director** that City Council consider:

- 1) Adoption of an interim zoning **ORDINANCE** as an urgency measure establishing a temporary moratorium on the approval or issuance of permits for the construction of residential developments of ten or more units; and
- 2) Approval of an **Ordinance Summary** for publication.

Mayor Walker opened the public hearing at 7:45 p.m.

Planning Manager Bihn stated that on July 27 the Council requested that staff bring forward an item so that Council could consider the effect of a moratorium on larger residential developments in the City. He stated that those applicants whose projects were deemed complete by the Community Development Department as of August 10 were to be exempt. He noted that the Findings on page 9 (Section 7 of the ordinance) needed to be finalized based on input from tonight's meeting. He added that supplemental information was available including correspondence and an updated list of projects in the works as of today and exempt from the moratorium or possibly exempt.

Mayor Walker reported that Councilmember McIntyre was ill but had indicated to him that based on the information in the packet, she had advised him that she strongly supported the item.

Councilmember Lieu explained that he had asked that the moratorium be placed on the agenda because he felt that the Floor to Area Ratio (FAR) was ambiguous and confusing and that he would like to see it revised to be more clear cut as to when it applies. His second reason for requesting the moratorium is that the results from a City wide traffic study would aid future planning decisions made by the Council.

Councilmember Lieu asked that the notification area be expanded from 300 feet to 500 feet and that homeowners associations also be notified of development hearings. He stated that he did not take the moratorium lightly, acknowledging that it can have severe consequences, take away property owner rights, have legal ramifications and affect business but that he felt it would help the Council in future projects.

John King 227th Street expressed support for the moratorium and cited concerns with building residential projects in manufacturing and light industrial areas. In response to his inquiry regarding Lomita, Planning Manager Isomoto explained that between the time the agenda item was written and the date of the meeting, the Planning Department received revised plans to change the 459 units to senior assisted living and the project has become vested in the interim.

John Michler, W. 182nd Street asked about the abandoned Circuit City building and Mayor Walker explained that that was an issue to be discussed during Orals.

David Henseler Singingwood Drive, stated his support of the moratorium and thanked the Council for taking it into consideration.

Diana Sutherland, El Prado Avenue, reminded the Council that when they ran for office they promised to represent the citizens and do what was right for the city. She noted that the moratorium would be temporary and would not stop the many projects in the pipeline but would provide a chance to step back, look at the General Plan, see the impact on traffic, schools, and the infrastructure and give them a chance to put thought in to what they want Torrance to be.

Michael Cotton, Via La Circula, president of Riviera Homeowner Association indicated that he was speaking on behalf of 11 homeowner associations - Hillside, Madrona, Northwest, Seaside, Old Torrance , Riviera , Save Historic Old Torrance, Southwood, Southwood Riviera , Southwood Sunray, West Torrance representing 23,000 homeowners in the City. He expressed support for a 45 day moratorium on development of any residential project of three units or more and thanked the Council for acknowledging their concerns. He stated that residents want a careful analysis and expect specific recommendations to address concerns about the high number of General Plan Amendments, variances, waivers and zone changes since 2002. He asked that exceptions should be avoided until the General Plan is updated and time is taken to analyze the cumulative effect of projects on City resources and traffic. Mr. Cotton requested a meeting between the Community Development Department and Torrance homeowners association representatives to discuss the City's proposed timeline, process and plans for when the moratorium expires. He expressed appreciation for their commitment to the City and confidence that they would act on long term interests.

John Mirassou, Susana Avenue, representing Anastasi Development Company, in support of the moratorium, felt that residents were frustrated with traffic rather than development. He stated that there was a huge demand for housing in the South Bay and reported that his company's latest development by Benihana's was putting in a brand new sewer system. He asserted that Torrance had been able to protect itself from the recession primarily through building trades and he cautioned against harming the economy as building creates jobs.

Virgina Hilker, Calle de Castellana, supported the adoption of the ordinance to establish a moratorium on residential development and an update of the General Plan with special emphasis on land use to prevent overdevelopment.

Kurt Nelson, J.C.C. Homes, Torrance Boulevard, questioned whether the Council would be able to make a legal finding that there was an immediate threat to the health, safety or welfare of residents and beyond legal requirements. He questioned the practical accomplishment of adopting the moratorium. He commented that the people behind the moratorium were the same people behind the campaign to recall the mayor and cited a great need for more residential development noting that there was vacant and available commercial property. Mr. Nelson asserted that the City received a good income from industrial and commercial developments. He pointed out that large projects are scrutinized, often requiring over a year to process entitlements for developments of 20 or more units.

Regarding concerns about traffic and schools, Mr. Nelson stated that there was a state statute on new development in counties and cities that places a disproportionate financial burden on residential construction. Infrastructure is required from developers in many cases to make up for lack of existing infrastructure. He encouraged residents to come to hearings and speak to developers.

Mr. Nelson asserted that residential development had less of an impact on the City than commercial and business development and he noted that there would be a ripple effect to many businesses.

Linda Gottshall-Sayed, Donora Avenue, noted that the agenda item indicated a moratorium on 10 or more units, but that public notices sent out did not include the number of units which is why Mr. Cotton specifically asked for a moratorium on three or more units. She took offense to Mr. Nelson's assertion that anyone who supported the moratorium supported the recall. She suggested that the moratorium was an emergency procedure because so many units have already been approved and not completed and this would allow the City to step back and look at the impact at what has been done rather than looking at more applications. The sheer volume of applications meets the necessary emergency requirements for a mere 45 day moratorium as the City is in a situation in the last year that they have approved and built more than has been done in the last 5 years.

Kevin Riley, Loftyview Drive, a resident for over 30 years, expressed concerns regarding the proposed development of over 400 units at the intersection of Lomita and Crenshaw and hoped that the Council would step back and examine the situation as it impacted the quality of life in Torrance.

Doug Maupin, 2531 West 237th Street, stated that he has built many projects in the City, taken under-utilized industrial land, spent money to clean up and had created nice neighborhoods. He asserted that he was fully vested and invested in the City. He observed that traffic is created by the big commercial projects including the mall that generate many trips per day, rather than residential developments. He supported the traffic study and noted that senior projects had the smallest possible impact on traffic.

Cheryl Vargo requested that the Sunrise Assisted Living project, a residential care facility, be exempt as it is not a residential use in the true sense as it does not generate traffic in the same way or create impacts on schools or other infrastructure items. The facility is that is very much needed and would serve a great need for a different type of housing for the aging population in the City.

Tom Paradise, Standard Pacific Homes, 3030 Seal Beach Boulevard, submitted a letter to the Council outlining his concerns, along with a letter from their legal counsel. He stated that he had spent a year and a half working with neighbors and surrounding property owners, the Council and staff, with not one objection, and the design was commended. On the basis of that approval they have invested \$25 million on construction of the project. He asserted that if the Council approved a moratorium they must exempt projects they have already approved and in fairness the Council must allow projects for which applications have been submitted. That would not give up the discretion to approve, deny or condition but only the right to have public hearings so people can express opinions and give property owners a chance to make their case. He asserted that his company wanted to be part of the solution as the community needs housing and traffic improvements and was looking for positive solutions.

Judy Weber, 716 Border Avenue, asserted that the moratorium on new development would give the Council a chance have a review the General Plan and include some idea of what kind of conservation plan they are going to adopt for the City in terms of historical conservation and wildlife conservation. She expressed alarm regarding an earlier comment on cleansing commercial property to be made residential as it is being reused in a way that was not intended and thereby creating an imbalance by disregarding thoughtful planning. Ms. Weber expressed alarm over the large number of conditional use permits, waivers, and general plan amendments, asserting that a new plan is needed for the City based on input from residents, not investors or outsiders.

Dale Turtle, Lincoln Avenue, asked for support of the moratorium.

Joyce Jimenez, Patronella Avenue, questioned that if a moratorium was to be adopted whether there was a provision to prevent large lots from being divided up so those projects can continue under the moratorium.

Maryanne Reis, Engracia Avenue, related that she had lived in the City since 1967 and supports the moratorium as there is too much traffic.

John Sullivan, Gramercy Avenue, expressed support for the moratorium and questioned whether there was a legal basis requiring the City to accommodate property owners who buy commercial and industrial lots and then want to change the zoning.

Mayor Walker indicated that the City was not required to make that change and City Attorney Fellows indicated that zone changes were legislative acts which require adoption by the City Council.

Cliff Heise, Patronella, pointed out for the record that those who have expressed support for the moratorium have a vested interest in the City as they are residents, and those who spoke against the moratorium have a special interest as they are developers.

Liz Fobes, Andreo Avenue, joined neighbors and community leaders in supporting the moratorium and requested that the moratorium be extended to developments of three units or more. She suggested that the plan needs revision because the General Plan did not include any protection for historical old Torrance as designed by the architect Frederick Olmstead and at present staff has to follow the plan which allows tearing down bungalows and building condos.

Ms. Fobes stated that she is a member of Citizens for Local Control and active in trying to fight California State legislation that is constantly trying to control local zoning and seeking to punish those cities that don't build large housing units under the flag of affordable housing. There are state as well local pressures and if a moratorium is passed at 3 or more units, time can be spent updating the plans and taking a hard look at the infrastructure as there is a great deal more in jeopardy than traffic. She suggested taking a look at how much the system can bear in terms of water, power, waste, traffic, parking, and the draw on public safety and then take a look at the distribution of the new housing and address the issue of affordable housing in the General Plan to determine how much more can be built before determining how much can be set aside for low income residents.

Bonnie Mae Barnard, Gramercy, a co-founder of Save Historical Old Torrance, thanked Councilmembers Scotto and Lieu for bringing the moratorium forward. She cited the League of Women Voters report that outlined compelling reasons to have a

moratorium on three units or more. Ms. Barnard expressed concern that the City has allowed changes to the General Plan without updating it through zone changes, conditional use permits, waivers and variances. She asserted that if FAR guidelines were followed and conditional use permits not issued a message would be sent to builders not to exceed the FAR.

Ms. Barnard reported that Councilmember McIntyre was quoted in the *Daily Breeze* as saying that they didn't realize there were so many variances and waivers because projects are considered one project at a time. The Mills Corporation proposal woke up the neighborhood and the League report was a great eye opener. She asked for clear objectives for what happens during the moratorium, a working plan on the General Plan and status reports to the community of what has been going on as well as how the League Report is being addressed. She reiterated that she wanted to see the moratorium on 3 or more units as 2 units is usually a homeowner, but 3 or more is usually not a homeowner.

Ms. Barnard also suggested thinking about how to change to become a focused community, create quality of life for all citizens in Torrance and to look at historic preservation for Old Torrance. She pointed out that the 100th anniversary of Torrance would be in 8 years and many communities have lost their history.

MOTION: At 8:46 p.m. Councilmember Scotto moved to close the public hearing. Councilmember Witkowsky seconded the motion and a roll call vote reflected unanimous approval (absent Councilmember McIntyre.)

Mayor Walker expressed support for the moratorium as an informative and positive step for Torrance.

Councilmember Witkowsky expressed pleasure that the City was doing a traffic study. She indicated she has learned that traffic from the hill has to go through Torrance to get to the freeway or town and that Torrance is a pass through and a destination because of commercial establishments. She also has learned that Torrance does not own all the streets: Hawthorne, Crenshaw, Pacific Coast Highway, Lomita and has signals controlled by CalTrans and if the signals are not in synchronization there is traffic and back up. She noted that there is a lot of traffic because people want to live in the area. She felt that the traffic study would provide other alternatives and asserted that traffic was motivating many people for the moratorium.

Councilmember Witkowsky expressed appreciation for the two years of work done by the League of Women Voters to create the housing study which she found very eye opening and informative. She quoted a League of Women Voter's letter from June 20, 2004 indicating that the completion of the General Plan would take well over two years. Councilmember Witkowsky asserted that 45 days would not provide the results they were hoping for and paraphrased a section from the letter: *"...We have heard that some people are calling for a moratorium. The League believes that such action would be counter productive. A preferable approach would be to adhere to the current General Plan along with the discouragement of General Plan amendments, zone changes, variances and waivers. The City Council can direct the Planning Commission and Planning Department to adhere more closely to the existing requirements. Decisions by the PC with direction from the council to hold firm and evaluating projects differently would be a better approach."*

Councilmember Lieu supported the moratorium on three units or more and noted that the vote required six out of seven votes to pass. He stated that Councilmember McIntyre would have voted yes and pleaded with his fellow Councilmembers to support the moratorium noting that legally it can only go for 45 days.

Councilmember Nowatka noted that Ms. Fobes had mentioned that several state laws can take local control away and are designed to get developers to build low income houses with incentive programs and he noted that it was unclear how the Regional Housing Needs Assessment would affect the City of Torrance. He asked that City Attorney Fellows look at the potential impact of existing law and pending law on the City.

Councilmember Nowatka acknowledged that density and traffic go together and noted that the state is pushing for increased density and reducing parking requirements in an effort to force people into public transportation. The assumption is that growth will happen as 6 million more people are expected to be in the area represented by the South Bay Council of Governments by 2030. As housing costs rise there is a push for lower income housing so there will be even greater density and he noted that the state was trying to create a panel that would override the City's right to turn down projects.

While Councilmember Nowatka acknowledged that the City was not the same as it was when he arrived in 1956, he had not experienced a difference in the quality of life. He expressed support for the moratorium despite his misgivings because he felt like the citizens of Torrance did not trust the Council anymore.

Councilmember Nowatka commented that there had been much pressure for more housing and though the City met their Regional Housing Assessment numbers in some areas, they were unable to meet the numbers for very low income, low income and moderate income housing. He observed that Torrance was not unique and other cities were not able to meet the numbers either so the state was reassessing its approach.

In response to an inquiry from Councilmember Nowatka, City Attorney Fellows said that the parameters they put into a 45 day moratorium would not necessarily have to be the parameters for extensions the Council might adopt, but he needed specifics to provide more specific advice. If the Council chose 10 units or more, there was flexibility to reduce that number later.

Councilmember Scotto reminded his colleagues that it would take six yes votes to pass the moratorium and felt it imperative that there be a moratorium for 45 days and further.

Responding to an inquiry from Councilmember Scotto regarding locations that are vest or not vested as noted in the material, City Attorney Fellows explained that California has a late vesting rule which means that until a project has all government approvals, building permits are received and actual construction is started, the project is not vested and the city could change the ground rules. In response to what the California Legislature considered to be the harshness of that late vesting rule, two legislative alternatives were developed that would provide vesting at an earlier date. The first alternative is obtain a development agreement contract between the city and developer or a contract based on standards in place regardless of future changes. Even though the development agreement vests earlier than the traditional rule, it still doesn't vest relatively early, so someone who has gone a long way through the process and may have invested a lot of money and time in the application process can still find the ground rules changed. The other alternative that provides substantially earlier vesting is the vesting tentative tract map.

He indicated that in this instance a. number of projects that have not been to a hearing but which have completed applications for development permits have filed applications for vesting tentative tract maps and applications have been determined to be complete by the City. Because they had those completed vesting map applications on file, they are now vested as to the rules the City can apply to them in determining whether permits are granted. Those applicants cannot be denied the opportunity to obtain a building permit if they complete the process, honoring all laws and requirements in place before this meeting. The project early in the process can be vested and a project late in the process, can have an application in plan check and not be vested as they did not utilize the vested tentative map process or have not gotten their building permit and started pouring cement.

In reply to an inquiry from Councilmember Scotto, Community Development Director Gibson explained that they were in the process of researching development impact fees to address traffic, undergrounding utilities, storm water infrastructure and sewer infrastructure. He added that the first phase of developing a senior project addressed paramedics and fire and the second phase addresses public safety and recreation fees but the public safety portion is much more difficult to implement. An analysis has been done with a consultant to determine which projects are subject to which fees and they have met with the development community to discuss the merits and impact of the proposed fees. A third meeting will be held with the development community to share what fees they are considering.

Community Development Director Gibson reported that the Community Development Department is considering bringing an item to Council to impose a fee in the residential land use category for everything but single family residential. Commercial and industrial would apply to broad land use designation, office or retail users, open space and recreation categories. On the industrial side they are looking at development fees for light or heavy industrial users based on trip generation derived from an analysis by the Institute of Transportation Engineers Trip Generation which is widely accepted. He acknowledged that there were certain limitations on what fees can be charged and that fees can be charged for new impacts, but there are limitations on charging fees for existing impacts so fees in a developed city will be less.

Responding to an inquiry from Councilmember Scotto, Community Development Director Gibson indicated that while there is nothing specifically in place to prevent someone from subdividing lots in order to skirt the moratorium it was unlikely as other regulatory devices would discourage it. The California Environmental Quality Act (CEQA) requires projects over a certain size to enter into an environmental review process including the Environmental Impact Report requirement.

Councilmember Scotto, referring to the supplemental material, asked how many on the top list were conditioned and Community Development Director Gibson explained 2740 Lomita still needed to be heard and 6226 Pacific Coast Highway had not yet been approved.

In response to an inquiry from Councilmember Scotto about changing the number of units for a project to be included in the moratorium, City Attorney Fellows indicated that the notice provision stated that the Council could change the number of units and indicated that an urgency interim ordinance requires no notice at all, that an urgency ordinance requires a 4/5 vote of the Council and goes in to effect for an initial 45 day period with one reading, no second reading, and no 30 day waiting period. If the ordinance is preceded by a notice process it can be extended for a total of two years but in

the urgency format it can be extended for ten months and 15 days and extended again for another year. The City Council can pick any number of units they want, as the description published on the notice is sufficient. Alternatively an urgency ordinance can be enacted.

Councilmember Scotto indicated that he would propose 3 units or more and he expressed hope that staff would work to get the idea across to builders who come to the counter that they should read and adhere to the ordinance. He commented that the FAR had been discussed numerous times and on rare occasions he has agreed to FARs higher than specified but he has questioned why proposals with high FARs came before the Council at all.

In response to an inquiry from Mayor Walker as to what would be coming before the Council in the next 45 days, Planning Manager Isomoto reported that the Vagabond Inn property was scheduled to come back on August 24 with a 16 units development that had a Planning Commission recommendation for 14 units. She added that the next project after that was scheduled for after the expiration of the 45 day moratorium and she noted that the City Manager controlled scheduling what comes before the Council.

City Attorney Fellows stated that the city is subject to processing and presentation for approval requirements under both the Subdivision Map Act and the Permit Streamlining Act.

Councilmember Mauno repeated a statement previously made by Councilmember Nowatka: Southern California will grow by 6 million people in 30 years, and he observed that population growth was something to gapple with. He indicated that they were monitoring Sacramento all the time as they are looking to usurp local discretionary control.

Responding to an inquiry from Councilmember Mauno as to what could reasonably be accomplished in 45 days, Community Development Director Gibson indicated staff would seek direction from the Council as to what would be brought back, but realistically a city-wide traffic study and amended General Plan could not both be accomplished, nor could an examination and amendment of multi-family zoning designations be completed within that time period.

Community Development Director Gibson asserted that the suggestion to implement broader notification procedures could be implemented within 45 days and staff could bring back specific actions with milestones of performance.

Councilmember Mauno questioned what specific findings needed to be made for an emergency ordinance and asked whether the findings were required to be made, stated or exercised to be valid. City Attorney Fellows stated that they would need to make findings and make it clear what facts and evidence they were relying on.

Mayor Walker called a brief recess from 9:31 to 9:51 p.m.

City Attorney Fellows commented on a number of pieces of testimony that evening as well as a letter received at the start of the meeting, submitted by Alene Taber from the law firm of Jackson, DeMarco and Peckenpaugh on behalf of Standard Pacific Homes, which raises a number of issues and problems with the urgency ordinance. Her first point is that the factual findings presently set forth in the draft ordinance are boiler-plate recitations of problems and there is no factual basis set forth to support those assertions. City Attorney Fellows stated that he would go line by line through the findings and point to testimony to support the factual basis that he has heard developed over the course of the evening.

The second point raised is that the urgency ordinance as proposed fails to satisfy findings necessary where it will impact multi-family projects. There are significant findings that need to be made with respect to projects with a significant multi family component, which is identified by state law as 1/3 or more of the total square footage of the project. With respect to that assertion, Government Code Section 65858 (c) indicates that any interim ordinance adopted pursuant to this section that has the affect of denying approval to projects with a significant component of multi family housing may not be extended. There is not a requirement that they make the series of findings in connection with the first 45 days of a moratorium but only if it is extended, so the report that would come back to the Council prior to a proposed extension would contain those findings and do not need to be addressed tonight.

The third item Ms. Taber raises is that the urgency ordinance fails to recognize existing vested rights and that the granting of conditional use permits with substantial reliance of the permit creates a fundamental vested property right. Mr. Fellows believes that contrary to the assertions in the letter, the late vesting rule in the AVCO Community Developers case which she references says that unless they have done that on-the-ground reliance and started construction, you don't have a vested right and unless there is a vesting tract map or development agreement approval, it will not save you if you have not have started construction. City Attorney Fellows noted that there was a legal issue to deal with but nothing for the Council to be concerned with this evening.

The next issue is that urgency ordinance undermines City's ability to comply with its fair share of regional housing allocation. Mr. Fellows believes that is something the Council will have to address in more detail, when staff comes back with the report in 45 days.

City Attorney Fellows reported that Ms. Taber raises the issue that the City can not adopt the urgency ordinance to prohibit the processing of entitlement applications. The City agrees but the ordinance does not say that. Section 3b of the proposed ordinance, on page 8 of the staff report, states that the applicant may elect to have City staff continue to accept and process applications during the moratorium. "This temporary moratorium is not intended to affect the acceptance and/or processing of permit applications for any and all developments described. It is intended only to prohibit the approval and issuance of permits for such developments. City Staff will continue to accept such permit applications received after the effective date of this Ordinance." Mr. Fellows noted that Ms. Taber was mistaken on this point and the urgency ordinance does comply with state law.

Ms. Taber says that Standard Pacific's applications are complete, so permit streamlining act time limits are now running. He agreed that there were some processing requirements and those applications would be processed according to those requirements.

Ms. Taber's letter indicates that the language of urgency ordinance is vague and ambiguous regarding the scope of the exception in section 5, Section 5 says the Ordinance will not apply to any residential development with 10 or more units that has an application deemed complete by the Community Development Department as of August 10. The staff report says projects are exempt if there is a complete application on file, whereas the ordinance itself says projects are only exempt if they are deemed complete by the Community Development Department. He suggested clarifying the matter by modifying the language of the ordinance to say "any residential development with 10 or more units that has a completed application on file as of August 10, 2004." He agreed with Ms. Taber and they will make the language consistent to solve that problem.

Ms. Taber raises a CEQA question. She says that Torrance needs to look at the CEQA consequences of what the City is proposing to do at the end of the moratorium. State law says the City can adopt a moratorium with respect to ordinances that are in conflict with something we have identified or that we intend to study within a reasonable time. That is the whole point of the moratorium. It will take us awhile to find out what changes, if any, need to be made to the general plan and zoning. It is premature to analyze CEQA consequences until we have a clearly defined project. It is not feasible to do that today.

Ms. Taber's letter concluded that if Torrance were going to adopt the urgency ordinance that they should exempt Standard Pacific Homes. City Attorney Fellows noted that with respect to all three of their projects, Standard Pacific has complete vesting tentative maps on file for each of those projects, so those projects are exempt. Any project that has a completed vesting tentative map application on file with the City as of 5:30 tonight is exempt from the moratorium anyway. If they are vested they will not be subject to the moratorium and there is nothing the City can do to stop that.

City Attorney Fellows responded to a request from Ms. Barnard that the moratorium be applied to 1000 units already vested, noting that if those units are in fact vested, the moratorium cannot legally be applied to them. Ms. Barnard referenced comments made by Cheryl Vargo regarding an assisted living facility the City is studying at the corner of Pacific Coast Highway and Hawthorne and he reported that it is the position of staff that assisted living facilities are not residential projects and would not be subject to the moratorium. Mr. Fellows stated that Ms. Vargo is asking for confirmation from the Council of staff's position and requested that it be added to the motion.

City Attorney Fellows indicated that any moratorium adopted this evening would be for 45 days with a report required to be submitted and with the Council making factual determinations with another vote taken to extend it.

The last things that Mr. Fellows addressed were the factual determinations to support the findings contained in Section 7 of the proposed ordinance. City Attorney Fellows clarified that the League of Women Voter's report is included in the record as part of the factual basis for the moratorium, particularly the 2-3 pages of specific conclusions on the amount of approved projects that required zone changes, general plan amendments, variances and waivers in the past couple of years. The report also cited changes in zoning from commercial to residential which have had demonstrable impacts on the City. The letter also discusses the incompatibility of including housing in industrial areas.

The land use compatibility issue is raised in Finding B, indicating that the new residential developments may not be compatible with existing residential, industrial or commercial areas. With respect to Finding A, that new residential developments may have a cumulative adverse impact on traffic, the Community Development Director has indicated that he is developing an impact fee for traffic mitigation that would specifically focus on the additional cumulative impact of future residential development on traffic and the item will be brought back to Council in the near future. Councilmember Lieu had mentioned that the Council has ordered a city-wide traffic study because of identified problems with traffic flow in intersections and arterials in the City.

Councilmember Lieu had also mentioned Finding C, that some elements of the Torrance Municipal Code related to development may be ambiguous. This refers to the different Floor Area Ratios, or FAR rules for different areas in the City. Mr. Fellows noted that Councilmember Scotto and Ms. Barnard had raised FAR concerns that new residential developments may not be compatible with existing residential neighborhoods. Some people

have referred to mansionization, where existing relatively small lots are being built to their maximum capacity or in some instances with waivers, built beyond maximum capacity, and that has raised compatibility issues with existing residential neighborhoods.

With respect to Finding D that public infrastructure may be adversely impacted by the approval of new residential developments, the dialogue between Councilmember Scotto and Community Development Director Gibson about development impact fee studies recognizes that residential developments do have some demonstrated impacts, and mitigation fees will be developed with respect to future construction.

With respect to Finding E, public and community services may be over burdened by new residential developments, that also is a development impact fee study issue with respect to police and fire services and will be coming back to the Council. Staff believes they will be able to demonstrate that there are some burdens that need to be mitigated by future development including specifically residential developments.

City Attorney Fellows indicated that he was adding a new proposed Finding F as a result of Councilmember Lieu's proposal to extend notification to a 500 feet radius and notice to all homeowner's associations of all development projects. The proposed finding F would be that existing notification procedures fail to provide adequate notice to residents and homeowner associations, thus resulting in inadequate public review of the potential impacts of those projects. That is amply demonstrated by the fact that they had to send out a special notice for the meeting this evening to homeowner associations and developers that far exceeded the 300 feet rule. The City believes that while existing notice procedures comply with minimum requirements of California State law they are not sufficient to provide adequate notice.

City Attorney Fellows noted that there is a reference to Torrance City Charter Section 726 that he does not think is applicable so he recommended striking it from section 7, the authority and findings for adopting the interim zoning ordinance as an emergency measure. In closing, Mr. Fellows noted that the moratorium was set up to deal with projects of 10 units or more and there are quite a few references to that in a number of different sections, so if that number is changed it should be included in the motion.

Councilmember Nowatka reminded the public that the moratorium had nothing to do with projects that were already vested and even if they are vested they may not have gone through the approval process. City Attorney Fellows agreed and noted that the rules in place before tonight are the rules those cases will be considered by.

Councilmember Mauno related that he had been a Planning Commissioner for over 10 years and had used discretion to make decisions on 1,500 homes. He recalled a meeting with Councilmember Scotto when he was seeking his endorsement where Councilmember Scotto indicated that he could not figure him out from looking at his record of planning decisions. Councilmember Mauno reported that he voted for the least amount of units on the Council because of his Planning Commission experience which made him not afraid to say no. He asserted that it was OK to vote no on larger projects and he encouraged developers to bring in projects at .6 and lower.

Councilmember Mauno questioned what could reasonably be accomplished during the moratorium noting that it would utilize resources in a tremendous way. He indicated that he had wanted a traffic study over a year ago and felt the City was going through a healthy transition similar to what the state and the rest of the nation are going through as a result of increased population.

Councilmember Mauno agreed that it was time to take a fresh look at housing but was not sure the moratorium was the way to look at it. He expressed concern over a statement from Councilmember Lieu that "a moratorium can have a chilling affect" noting that a moratorium is a drastic step and they don't want to send the wrong signal. He felt the City was going in the right direction and noted that Bonnie Mae Barnard had encouraged Councilmembers to follow the guidelines in place and vote no on inappropriate developments. He felt that following the guidelines that were in place would challenge Councilmembers to exercise discretion and move in the right direction.

Councilmember Witkowsky related that during the break Mr. Cotton had encouraged her to consider 45 days, but she heard Mr. Gibson indicate that nothing would really be accomplished in 45 days. She felt bad when there was applause for a comment that people do not trust the Council and asserted that in all of her votes over four years she tried to vote for the good of Torrance.

Councilmember Witkowsky agreed to vote for the moratorium for a maximum of 45 days out of respect for all the people who support it though she did so with misgivings as she felt it was an exercise and they would not get what they wanted in 45 days.

Councilmember Lieu appreciated Councilmember Witkowsky's voice of support noting that they would be able to get timelines within 45 days. He urged his colleagues to vote for the moratorium noting that Councilmember McIntyre could not be present but if she were present she would support the moratorium.

Mayor Walker commented that the moratorium was only one of many subjects touched on this evening like affordable housing, workforce housing, and subsidized housing. He pointed out that housing that they have built in the last four years has amounted to 1.7% of their housing stock with 1.5% of it in the last two years. The only time the City Council has ever involved themselves in a process or an application prior to it getting in front of them was when he went back to Virginia to get the Mills Corporation to withdraw their application because it was ripping the community apart.

Mayor Walker asserted that the housing stock built in the last 4½ years has been quality housing that is commensurate with the standards of the community and a little bit more expensive in order to raise home values and that moderate housing stock was not built in the city by intention. He observed that most development cases either passed unanimously or with a 5-2 or 6-1 vote and he noted that the Maricopa project had passed unanimously, correcting a statement from Councilmember Scotto last week that he had opposed it. He pointed out that the record indicates a cooperative voting pattern with development cases going through a thorough process by the time they come before the Council.

Mayor Walker pointed out that the three largest housing developments built in the City of Torrance in the last 20 years have all been in front of the Council in the last year because there is a need for housing. He indicated that Councilmember Scotto who has been talking the most about trust issues and the FAR made the motion to approve two of the three highest and largest housing developments in the City as they were good projects and it worked well for the community.

Mayor Walker acknowledged that there are major traffic problems in Torrance and everywhere but the 1.7% of housing stock built in the last 5 years does not contribute significantly to 500,000 people who are here everyday in the city of Torrance. He expressed support for the moratorium as it will allow the City to look inward and with the cooperation and work of homeowner association presidents and

residents they can work toward finding solutions. He asserted that problems should not all be blamed on one segment of the City and the moratorium will provide an opportunity to fix misplaced perception.

Councilmember Scotto reiterated that it would take all six Councilmembers to pass the moratorium and although everything can not be accomplished in 45 days, factual findings can be completed during that time so the moratorium can be extended another 10 months and 15 days.

City Attorney Fellows indicated that in 45 days staff will have factual findings with respect to multi-family projects as well as a series of timelines and project proposals from the Community Development staff about what would be accomplished over the course of the moratorium if it is extended. He noted that they might come back on notice with some work done on FARs or other aspects of the zoning ordinance or zoning provisions but staff would not have the answers to the future development course of Torrance in 45 days.

MOTION: Councilmember Scotto moved to amend the moratorium to extend to developments of three units and above, accept the staff report incorporating comments from City Attorney Fellows with respect to deleting the charter reference, include references to the factual determinations and include a new factual finding F relating to notice that was supported by Councilmember Lieu, incorporate the findings of the League of Women Voter's report and confirm that assisted living is not included in residential development. Mayor Walker seconded the motion. The motion failed on the following vote: Yes: Lieu, Nowatka, Scotto, Witkowsky, Walker; No: Mauno; Absent: McIntyre.

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The Torrance Redevelopment Agency met from 10:30 p.m. to 10:33 p.m.

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16. ORAL COMMUNICATIONS

16a. Councilmember Lieu encouraged everyone to visit www.laafbballiance.com to help oppose base closures.

16b. Councilmember Mauno reported that the Madrona Marsh has larvae fish that eat mosquitoes and the sentinel chickens at the Marsh are fat and healthy leaving no indication that there is any presence of West Nile virus at the marsh.

16c. Councilmember Nowatka encouraged everyone to see "The Sound of Music" and read the reviews in the *Daily Breeze*.

16d. Councilmember Scotto indicated that he had previously suggested under Orals that Planning Commission meetings be broadcast on television with tapes available in the library. He also asked that City Council meetings be available on tape and DVD in the main library for the public to access.

He reported going through a program with county poll workers and suggested staff investigate the possibility of creating a program for City employees on a first come first served basis to become involved as poll workers.

16e. Councilmember Witkowsky wished everyone a nice evening.

16f. Mayor Walker stated that the matter of televising other meetings should come back to the Council for additional discussion and he asked staff to gather additional information.

16g. Mayor Walker acknowledged the long discussion on the moratorium and expressed hope that staff would work on all the items they were looking to do if the moratorium had passed and allow the opportunity to use that information and interact with the public in that way so that they can use their time effectively.

16h. Curtis Reeder, West 236th Place, indicated that he had lost faith in the City, and expressed displeasure with the work of the Planning Department and the volume of traffic in the City.

16i. Robert Thompson, President, Madrona Homeowners Association, was very discouraged by the actions of the Council. He read a full page ad to the Council from the Daily Breeze, dated March 4, 2002: "Citizens of Torrance, Do you want members who will hear the people better than the developers? If these issues are important for you then you will want to vote for Mike Mauno, Ted Lieu, Pat McIntyre, Dan Walker."

16j. Judy Weber, Border Avenue, expressed hope that by voting against the moratorium Councilmember Mauno's vote indicated that he will strictly adhere to the rules, boundaries and codes in the current General Plan and he will not approve split lots, waivers, General Plan Amendments, conditional use permits, and increased FARS until there is a comprehensive historically thoughtful General Plan for the City.

16k. Mayor Walker indicated that Councilmember Witkowsky would be holding a hearing of interest to everyone that is interested in historical preservation in Old Torrance on August 23.

16k. Dr. Owen Griffith, President of the Torrance Symphony Association, invited everyone to attend the 20th Anniversary Concert of the Torrance Symphony in Wilson Park on August 22.

16l. City Clerk Herbers indicated that tapes are always available by appointment in City Clerk's office.

16m. Newt Young, Hickory Avenue, asserted that Torrance has a General Plan that has not been adhered to but if the Planning Department would follow the rules and stop bending them for developers there would not have been a call for a moratorium.

17. EXECUTIVE SESSION

Considered earlier in the meeting.

18. ADJOURNMENT

At 10:47 p.m., the meeting was adjourned to Tuesday, August 17, 2004 at 5:30 p.m., for a joint meeting with the Library Commission in the community meeting room of the Katy Geissert Civic Center Library. The City Council and Redevelopment Agency will convene with the regular meeting commencing at 7:00 p.m. in Council Chambers.

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Attest:

/s/ Dan Walker

Mayor of the City of Torrance

/s/ Sue Herbers

Sue Herbers, CMC

City Clerk of the City of Torrance

Approved on November 9, 2004